

REMARKS

Claims 1-20 are pending in the application.

Claims 1-20 were rejected in the prior application.

Claim 12 has been amended, as set forth herein.

I. REJECTION UNDER 35 U.S.C. § 103

In the prior application, Claims 1-20 were rejected under 35 U.S.C. § 103 as being unpatentable over Shrader (US 5,864,666) in view of Johnson, et al. (US 5,987,135). The rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant

of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

The Office Action concedes that Shrader fails to teach an “extranet switch”. The Office Action appears to address this claimed element by stating “However”, but the Office Action does not contain any additional text (just a blank). See, Office Action, page 3. In addition, the Office concedes that Shrader fails to teach “transmitting a script for requesting information,” but argues that Johnson teaches this element, and therefore, Applicants’ claimed invention is obvious. See, Office Action, page 3.

Applicants’ claimed invention is directed to managing a virtual private network using an extranet switch. Applicants’ extranet switch provides more functionality than the firewall described

by Shrader. Accordingly, Shrader fails to disclose, teach or suggest monitoring the virtual private network attributes of an extranet switch.

Johnson discloses a central processing system that controls and monitors remote distributed processing systems. Agent-application (application) programs are downloaded to a remote host processing system to run the application. See, Johnson, Figure 1A; col. 3-4. There is no teaching or suggestion in Johnson to transmit a script command to an extranet switch requesting virtual private network attribute(s) of the extranet switch and its operational functions.

Accordingly, the Applicants respectfully request withdrawal of the § 103 rejection of Claims 1-20, as neither Shrader or Johnson, either alone or in combination, disclose, teach or suggest Applicants' claimed invention.

Claim 12 has been amended. Neither Shrader or Johnson, alone or in combination, disclose teach or suggest Applicants' method of managing a virtual private network including at least one extranet switch, by transmitting a script for requesting information describing at least one virtual private network attribute from a selected one of at least one extranet switch providing at least one virtual private network function, the script including a script command; receiving the information; providing a menu identifying at least one report capable of preparation; receiving a selection identifying at least one report; preparing the selected report including the received information of the selected extranet switch; and displaying the prepared report to a user. Applicants respectfully submit that neither Shrader or Johnson disclose, teach or suggest the elements/features (or combination of elements/features thereof), inter alia, that are underlined above.

II. CONCLUSION

As a result of the foregoing, the Applicants assert that the remaining Claims in the Application are in condition for allowance, and respectfully request an early allowance of such Claims.

AMENDMENTS WITH MARKINGS TO SHOW CHANGES MADE

Claim 12 was amended herein as follows:

12. (Amended) A method of managing a virtual private network including at least one extranet switch, comprising:

transmitting a script for requesting information describing at least one virtual private network attribute from a selected one of at least one extranet switch providing at least one virtual private network function, the script including a script command;

receiving the information;

providing a menu identifying at least one report capable of preparation;

receiving a selection identifying at least one report;

preparing the selected report including the received information of the selected extranet switch; and

displaying the prepared report to a user. [A method of monitoring a virtual private network including an extranet switch, the method comprising:

managing a virtual private network including an extranet switch, by

transmitting a script for requesting information from multiple computers providing virtual private network tunnels, the information including usage of tunnel protocols over a period of time, the script includes a script command;

receiving the information; and

displaying the received information to a user.]

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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